

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

FIRST BANK & TRUST,	§
	§
Plaintiff,	§
v.	§
REAGOR AUTO MALL, LTD. d/b/a	§
REAGOR-DYKES OF LEVELLAND,	§
and d/b/a REAGOR-DYKES IMPORTS,	§
FIRSTCAPITAL BANK OF TEXAS,	§
N.A., BART REAGOR, RICK DYKES,	§
SHANE SMITH, SHEILA MILLER,	§
BRAD D. BURGESS, and KENNETH L.	§
BURGESS,	§
Defendants.	§

CAUSE NO. 5:18-cv-00234-C

**DEFENDANT FIRSTCAPITAL BANK OF TEXAS, N.A.'S**  
**MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT**

The Defendant, FirstCapital Bank of Texas, N.A. ("FirstCapital") files this Motion to Dismiss Plaintiff's Second Amended Complaint ("Motion") pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for the reason that Plaintiff First Bank & Trust has failed to state a claim upon which relief can be granted. Contemporaneous with the filing of the Motion, Defendant FirstCapital also filed its brief in support.

WHEREFORE, Defendant FirstCapital Bank of Texas, N.A. requests the Court to dismiss Plaintiff First Bank & Trust's Second Amended Complaint and for other relief as the Court finds just and equitable.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 13, 2018, I electronically filed the foregoing document with the clerk of court using the electronic filing system. The electronic filing system will send a "Notice of Electronic Filing" to the following attorney(s) of record who have consented in writing to accept this Notice as service of this document by electronic means:

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